

Article 8.

Retirement of Judges of the Superior Court; Retirement Compensation for Superior Court Judges; Recall to Emergency Service of Judges of the District and Superior Court; Disability Retirement for Judges of the Superior Court.

§ 7A-50. Emergency judge defined.

As used in this Article "emergency judge" means any judge of the superior court who has retired subject to recall to active service for temporary duty. (1967, c. 108, s. 2.)

§ 7A-51. Age and service requirements for retirement of judges of the superior court and of the Administrative Officer of the Courts.

(a) Any judge of the superior court, or Administrative Officer of the Courts, who has attained the age of sixty-five years, and who has served for a total of fifteen years, whether consecutive or not, as a judge of the superior court, or as Administrative Officer of the Courts, or as judge of the superior court and as Administrative Officer of the Courts combined, may retire and receive for life compensation equal to two thirds of the total annual compensation, including longevity and additional payment for service as senior resident superior court judge, but excluding any payments in the nature of reimbursement for expenses or subsistence allowances, from time to time received by the occupant of the office from which he retired.

(b) Any judge of the superior court, or Administrative Officer of the Courts, who has served for twelve years, whether consecutive or not, as a judge of the superior court, or as Administrative Officer of the Courts, or as judge of the superior court and as Administrative Officer of the Courts combined may, at age sixty-eight, retire and receive for life compensation equal to two thirds of the total annual compensation, including longevity and additional payment for service as senior resident superior court judge, but excluding any payments in the nature of reimbursement for expenses or subsistence allowances, from time to time received by the occupant of the office from which he retired.

(c) Any person who has served for a total of twenty-four years, whether continuously or not, as a judge of the superior court, or as Administrative Officer of the Courts, or as judge of the superior court and as Administrative Officer of the Courts combined, may retire, regardless of age, and receive for life compensation equal to two thirds of the total annual compensation, including longevity and additional payment for service as senior resident superior court judge, but excluding any payments in the nature of reimbursement for expenses or subsistence allowances, from time to time received by the occupant of the office from which he retired. In determining whether a person meets the requirements of this subsection, time served as district attorney of the superior court prior to January 1, 1971, may be included, so long as the person has served at least eight years as a judge of the superior court, or as Administrative Officer of the Courts, or as judge of the superior court and Administrative Officer of the Courts combined.

(d) Repealed by Session Laws 1971, c. 508, s. 3.

(e) For purposes of this section, the "occupant or occupants of the office from which" the retired judge retired will be deemed to be a superior court judge holding the same office and with the same service as the retired judge had immediately prior to retirement. (1967, c. 108, s. 2; 1971, c. 508, s. 3; 1973, c. 47, s. 2; 1983 (Reg. Sess., 1984), c. 1109, ss. 13.10-13.13.)

§ 7A-52. Retired district and superior court judges may become emergency judges subject to recall to active service; compensation for emergency judges on recall.

(a) Judges of the district court and judges of the superior court who have not reached the mandatory retirement age specified in G.S. 7A-4.20, but who have retired under the provisions of G.S. 7A-51, or under the Uniform Judicial Retirement Act after having completed five years of creditable service, may apply as provided in G.S. 7A-53 to become emergency judges of the court from which they retired. From the commissioned emergency district, superior, and special superior court judges, the Chief Justice of the Supreme Court shall create two lists of active emergency judges and two lists of inactive emergency judges. For emergency superior and special superior court judges, the active list shall be limited to a combined total of 10 emergency judges; all other emergency superior and special superior court judges shall be on an inactive list. For emergency district court judges, the active list shall be limited to 25 emergency judges; all other emergency district court judges shall be on an inactive list. There is no limit to the number of emergency judges on either inactive list. In the Chief Justice's discretion, emergency judges may be added or removed from their respective active and inactive lists, as long as the respective numerical limits on the active lists are observed. The Chief Justice is requested to consider geographical distribution in assigning emergency judges to an active list but may utilize any factor in determining which emergency judges are assigned to an active list. The Chief Justice of the Supreme Court may order any emergency district, superior, or special superior court judge on an active list who, in his opinion, is competent to perform the duties of a judge, to hold regular or special sessions of the court from which the judge retired, as needed. Order of assignment shall be in writing and entered upon the minutes of the court to which such emergency judge is assigned. An emergency judge shall only be assigned in the event of a:

- (1) Death of a sitting judge.
- (2) Disability of a sitting judge.
- (3) Recall to active military duty of a sitting judge.
- (4) Retirement or removal of a sitting judge.
- (5) Court case-management emergency.

(a1) An emergency judge of the superior court may be recalled to active service by the Chief Justice and assigned to hear and decide complex business cases if, at the time of the judge's retirement, all of the following conditions are met:

- (1) The judge is a special superior court judge who is retiring from a term to which the judge was appointed pursuant to G.S. 7A-45.1.
- (2) The judge is retiring from a term for which the judge was assigned by the Chief Justice to hear and decide complex business cases as a business court judge pursuant to G.S. 7A-45.3.
- (3) The judge's nomination to serve a successive term in the same office is pending before the General Assembly, or was not acted upon by the General Assembly prior to adjournment sine die.

- (4) If confirmed and appointed to the successive term of office for which nominated, the judge would reach mandatory retirement age before completing that term of office.

An emergency judge assigned to hear and decide complex business cases pursuant to this subsection shall be designated by the Chief Justice as a senior business court judge and shall be eligible to serve in that capacity for five years from the issuance date of the judge's commission under G.S. 7A-53 or until the judge's commission expires, whichever occurs first. Order of assignment shall be in writing and entered upon the minutes of the court to which such emergency judge is assigned. An emergency judge assigned to hear and decide complex business cases shall not be counted in the combined total of active emergency superior and special superior court judges described in subsection (a) of this section.

(b) In addition to the compensation or retirement allowance the judge would otherwise be entitled to receive by law, each emergency judge of the district or superior court who is assigned to temporary active service by the Chief Justice shall be paid by the State the judge's actual mileage and any necessary lodging and meal expenses, plus four hundred dollars (\$400.00) for each day of active service rendered upon recall, and each emergency judge designated as a senior business court judge pursuant to subsection (a1) of this section shall be paid by the State the judge's actual expenses, plus five hundred dollars (\$500.00) for each day of active service rendered upon recall as a senior business court judge. No day of active service rendered by an emergency judge pursuant to assignment under subsection (a) of this section shall overlap with a day of active service rendered pursuant to assignment under subsection (a1) of this section. No recalled retired trial judge shall receive from the State total annual compensation for judicial services in excess of that received by an active judge of the bench to which the judge is recalled. Emergency judges on an inactive list shall not receive reimbursement for continuing legal or judicial education. (1967, c. 108, s. 2; 1973, c. 640, s. 4; 1977, c. 736, s. 3; 1979, c. 878, s. 2; 1981, c. 455, s. 6; c. 859, s. 47; 1981 (Reg. Sess., 1982), c. 1253, s. 3; 1983, c. 784; 1985, c. 698, s. 9(b); 1987, c. 738, s. 132; 1987 (Reg. Sess., 1988), c. 1086, s. 31(b); 1989, c. 116; 1993, c. 321, s. 200.3; 1998-212, s. 16.27(a); 2007-323, s. 14.26; 2007-345, s. 9; 2016-91, s. 3; 2017-57, s. 18B.11(b).)

§ 7A-53. Application to the Governor; commission as emergency judge.

No retired judge of the district or superior court may become an emergency judge except upon his written application to the Governor certifying his desire and ability to serve as an emergency judge. If the Governor is satisfied that the applicant qualifies under G.S. 7A-52(a) to become an emergency judge and that he is physically and mentally able to perform the official duties of an emergency judge, he shall issue to such applicant a commission as an emergency judge of the court from which he retired. The commission shall be effective upon the date of its issue and shall terminate when the judge to whom it is issued reaches the maximum age for judicial service under G.S. 7A-4.20(a). (1967, c. 108, s. 2; 1977, c. 736, s. 4; 1979, c. 878, s. 3.)

§ 7A-53.1. Jurisdiction of emergency district court judges.

Emergency district court judges have the same power and authority in all matters whatsoever, in the courts which they are assigned to hold, that regular district court judges holding the same courts would have. An emergency district court judge duly assigned to hold district court in a

particular county or district has the same powers in the county or district in open court and in chambers as a resident district court judge or any district court judge regularly assigned to hold district court in that district, but his jurisdiction in chambers extends only until the session is adjourned or the session expires by operation of law, whichever is later. (1981, c. 455, s. 5.)

§ 7A-54. Article applicable to judges retired under prior law.

All judges of the superior court who have heretofore retired and who are receiving retirement compensation under the provisions of any judicial retirement law previously enacted shall be entitled to the benefits of this article. All such judges shall be subject to assignment as emergency judges by the Chief Justice of the Supreme Court, except judges retired for total disability. (1967, c. 108, s. 2.)

§ 7A-55. Retirement on account of total and permanent disability.

Every judge of the superior court or Administrative Officer of the Courts who has served for eight years or more on the superior court, or as Administrative Officer of the Courts, or on the superior court and as Administrative Officer of the Courts combined, and who while in active service becomes totally and permanently disabled so as to be unable to perform efficiently the duties of his office, and who retires by reason of such disability, shall receive for life compensation equal to two thirds of the annual salary from time to time received by the occupant of the office from which he retired. In determining whether a person meets the requirements for retirement under this section, time served as district solicitor of the superior court prior to January 1, 1971, may be included. Whenever any judge claims retirement benefits under this section on account of total and permanent disability, the Governor and Council of State, acting together, shall, after notice and an opportunity to be heard is given the applicant, by a majority vote of said body, make findings of fact from the evidence offered. Such findings of fact shall be reduced to writing and entered upon the minutes of the Council of State. The findings so made shall be conclusive as to such matters and determine the right of the applicant to retirement benefits under this section. Judges retired under the provisions of this section are not subject to recall as emergency judges. (1967, c. 108, s. 2.)

§ 7A-56. Applicability of §§ 7A-51 and 7A-55.

The provisions of G.S. 7A-51 and 7A-55 shall apply only to judges (and any Administrative Officer of the Courts) who entered office prior to January 1, 1974. The extent of such application is specified in Chapter 135, Article 4 (Uniform Judicial Retirement Act). (1973, c. 640, s. 6; 1975, c. 19, s. 2.)

§ 7A-57. Recall of active and emergency trial judges who have reached mandatory retirement age.

Superior and district court judges retired because they have reached the mandatory retirement age, and emergency superior and district court judges whose commissions have expired because they have reached the mandatory retirement age, may be recalled to preside over regular or special sessions of the court from which retired under the following circumstances:

- (1) The judge must consent to the recall.
- (2) The Chief Justice is authorized to order the recall.

- (3) Prior to ordering recall, the Chief Justice shall be satisfied that the judge is capable of efficiently and promptly discharging the duties of the office to which recalled.
- (4) Jurisdiction of a recalled retired superior court judge is as set forth in G.S. 7A-48, and jurisdiction of a recalled retired district court judge is as set forth in G.S. 7A-53.1.
- (5) Orders of recall and assignment shall be in writing and entered upon the minutes of the court to which assigned.
- (6) Compensation of recalled retired trial judges is the same as for recalled emergency trial judges under G.S. 7A-52(b).
- (7) Recalled emergency judges who served as a senior business court judge and whose commission expired upon reaching the mandatory retirement age may be recalled by the Chief Justice and assigned to hear and decide complex business cases as a senior business court judge for up to five years from the issuance date of their commission under G.S. 7A-53.
- (8) The emergency judge is listed as active on the list described in G.S. 7A-52(a). This does not apply to an emergency judge who qualifies under subdivision (7) of this section. (1981, ch. 455, s. 4; 2016-91, s. 4; 2017-57, s. 18B.11(c).)

§ 7A-58. Reserved for future codification purposes.

§ 7A-59. Reserved for future codification purposes.